



Appeal Decision

Site visit made on 31 August 2023

by R Lawrence MRTPI, BSc (hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 17 October 2023

Appeal Ref: APP/G5180/W/22/3313933

Kingsway House, Flat 3, Church Drive, Bromley, West Wickham BR4 9JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr E Hoxholli against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/04080/FULL1, dated 14 October 2022, was refused by notice dated 16 December 2022.
 - The development proposed is a detached 3 bedroom family house on land at the back of 3 Kingsway House, Church Drive, West Wickham BR4 9JH.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have been made aware of an extant planning permission for a mixed-use development relating to land rear of the appeal site, 40 Croydon Road. From my on-site observations it appeared that development had not yet commenced. Whilst I cannot be certain whether the approved scheme will be implemented, I have had regard to the possibility of the scheme being developed, in so far as relevant to the main issues.

Main Issues

3. The Council's submissions raise concern in respect of the loss of amenity space to flat 3 and both parties address this in their appeal statements. Whilst the loss of amenity space does not clearly and specifically form a reason for refusal it is nevertheless a matter in dispute which is highly relevant to the appeal scheme. I am satisfied having regard to the submitted material that both parties have had sufficient opportunity to comment on the issue. Notwithstanding that the appellant has considered the matter in relation to the first reason for refusal, as it relates to living conditions, I have included it as a separate main issue in addition to the other matters raised within the Council's reasons for refusal.
4. The main issues are therefore:
 - i) Whether the proposal would provide sufficient amenity space for current and future occupants of flat 3;
 - ii) Whether the proposal would provide suitable living conditions for future occupants of the proposed house and for the occupants of existing dwellings in respect of outlook and privacy;

- iii) The effect of the proposal on the character and appearance of the local area.

Reasons

Amenity space provision

5. The garden area rear of Kingsway House is subdivided to provide separate private gardens for the upper and ground floor flats. The proposal would involve the entirety of the existing rear garden currently serving flat 3 being allocated to the new dwelling and therefore, the loss of a private garden for flat 3, a two-bedroom flat.
6. I accept that there is good access to public open space and recreation areas with Coney Hall located at the end of the road. However, access to public open space would not compensate for the loss of private amenity space for activities such as sitting out, the drying of clothes and play space. Policies 3 and 4 of the Bromley Local Plan 2019 (LP) together seek, amongst other matters, to ensure sufficient external private amenity space is provided. Outdoor space, including private space, is important for the health and wellbeing of current and future occupants of flat 3.
7. The proposal would therefore fail to provide adequate amenity space for current and future occupants of existing flat 3, thereby conflicting with Policies 3 and 4 of the LP.

Living conditions

8. The proposed dwelling would provide a single aspect outlook to the internal rooms. Stepped planters would allow exposure to some degree of outlook to the 3 bedrooms at lower ground floor level, however, due to the subterranean location of the bedrooms, together with the steepness and proximity of the planters, the extent of this would be very limited. The bedrooms are key habitable rooms and having regard to the significant constraints to outlook, I cannot be satisfied that an acceptable standard of accommodation would be achieved.
9. In terms of privacy, there would be some intervisibility between the existing flats and the proposed amenity space/proposed dwelling. However, I find that a degree of intervisibility is common in residential areas such as these and the separation distance between the existing and proposed dwelling would be acceptable. The boundary treatments dividing the garden space would provide a physical separation between the amenity space for the proposed dwelling and the existing flats and a degree of privacy. Having regard to these factors, I find that the proposal would not cause harm in respect of overlooking or privacy. However, this would not justify or overcome the unsuitable living conditions that I have found would be provided for future occupiers due to poor outlook.
10. The proposal would therefore fail to provide suitable living conditions for future occupants of the proposed house, in conflict with Policy 37 of the LP. This policy, amongst other matters, seeks to protect the amenities of current and future occupants.

Character and appearance

11. The proposed dwelling would be sited at the rear of garden land associated with flat 3 of Kingsway House, which fronts onto Church Road. The area is characterised by residential housing, served by generous rear gardens. To the rear of the site lies commercial development with a factory building forming the rear boundary of the appeal site.
12. The proposed location of the new dwelling would be at odds with the immediate surroundings, where there are no other clear examples of back land housing. The density of the site would visibly increase. However, the appeal site is relatively unique in its surroundings, with the site already subdivided and in terms of its proximity to a large commercial site to the rear. The proximity of commercial development influences the surrounding character as well as resulting in a high density of built form. The introduction of a residential single storey building in front of the existing factory building would serve to strengthen the residential characteristics of the site's surroundings. It is notable that the proposal would be screened by existing built form from public views from Church Road and as such the frontage development characteristics, in terms of public views, would be preserved.
13. The proposed dwelling would be partially underground, and therefore would appear single storey in form. The scale of the above ground portion of the dwelling would be comparable with a garden outbuilding, which are commonplace in the area. Whilst I accept that the characteristics of a new dwelling would be materially different to an outbuilding due to the architectural detail, more formal curtilage and increases in residential paraphernalia; having regard to the above factors, I consider the proposal would sit comfortably within its surroundings. I accept there would be a numerical increase in density, however, given I have found it would integrate well with its surroundings, this would not result in material harm to the character of the area.
14. The proposed dwelling would also deliver visual improvements to the site through obscuring views of the factory building behind which is functional and bland in its appearance.
15. In the event that the approved scheme at 40 Croydon Road were to be built out, this would alter the mixed-use character of the area and introduce a higher density of residential development than seen in the immediate locality. As the proposal would introduce further residential development, of a slightly higher density than existing, this would not alter my findings that the proposal would not be harmful to character and appearance.
16. Having regard to the above, I find that the proposed development would not harm the character and appearance of the local area. The proposal therefore accords with Policies 3, 4 and 37 of the LP. The policies, when taken together and insofar as relevant to the proposal, seek to ensure that new housing is of a high-quality design which protects the character and appearance of the area.

Planning Balance

17. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 74 of the Framework. As such, paragraph 11dii in the National Planning Policy Framework (the Framework)

applies. The Council has a supply of 3.99 years, which amounts to a significant undersupply.

18. Government's objective is to significantly boost the supply of homes. The proposal would make a minor contribution to housing development in the area within a sustainable location and on a windfall site.
19. The scheme would also deliver biodiversity and sustainability enhancements including a green roof, sustainable design and construction methods and would be well suited to provide on-site energy generation. However, as the proposal is for a single dwelling these benefits would be small. As such, even in the context of a significant undersupply of housing, I attach moderate weight to the benefits that would be brought about by the additional dwelling.
20. The harm identified by way of insufficient amenity space for current and future occupants of flat 3, together with the harmful living conditions for future occupants of the proposed house in respect of outlook, would be significant. My finding that the proposed development would not harm the character and appearance of the local area does not deflect from this. When assessed against the policies in the Framework taken as a whole, the adverse impacts significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development.

Conclusion

21. The proposal would conflict with the development plan as whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

R Lawrence

INSPECTOR